



U.S. DEPARTMENT of STATE

Austria

Country Reports on Human Rights Practices - [2004](#)

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Austria is a multiparty parliamentary democracy in which constitutional power is shared between the popularly elected president and the 183-member Parliament. Citizens choose their president and representatives in periodic, free, and fair multiparty elections. In April, voters elected President Heinz Fischer of the Social Democratic Party of Austria (SPO) to a

6-year term. In November 2002, the Austrian People's Party (ÖVP) received a plurality in parliamentary elections and renewed its right-center coalition with the Freedom Party (FPÖ). The judiciary is independent.

The national police maintain internal security, and the army is responsible for external security. The civilian authorities maintained effective control of the security forces. There were reports that police committed some human rights abuses.

The country's highly developed, market-based economy, with its mix of technologically advanced industry, modern agriculture, and tourism, affords the approximately 8 million citizens a high standard of living. During the year, wages grew slightly faster than inflation. The gross domestic product grew by slightly less than 1 percent during the year; there were no serious inequalities in the distribution of income.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some reports of abuse by police, which involved occasional beatings, but primarily verbal abuse, threats, and harassment. Foreign observers criticized the strict application of slander laws as detrimental to press reporting. There was some governmental and societal discrimination against members of some unrecognized religious groups, particularly those considered to be "sects." There were neo-National Socialist, rightwing extremist, and xenophobic incidents during the year. Trafficking in women for forced prostitution remained a problem, which the Government took steps to combat. In July, the Equal Treatment Bill implementing the European Union (EU) Anti-Discrimination and Anti-Racism Guidelines took effect.

RESPECT FOR HUMAN RIGHTS

Section 1

Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

There were no developments in the 2003 killing of a 33-year-old Mauritanian man who died in custody after being arrested by Vienna police. Criminal investigations against four policemen, as well as the emergency physician present, continued at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

The Constitution prohibits such practices; however, there were occasional reports that at times police beat and otherwise abused persons. Government statistics for 2003 showed 988 complaints against federal police officials; of those, 983 were dropped. In 11 court cases, 1 officer was convicted of using unjustified force; 73 cases were pending at the end of 2003. Types

of abuse ranged from slander to kicking and hitting. Some of the violence appeared to be racially motivated. Nongovernmental organizations (NGOs) and other groups continued to criticize the police for targeting minorities. During the year, the Interior Ministry conducted racial sensitivity training programs for over 2000 police and other officials with NGO assistance.

A committee in the Interior Ministry seeks to ensure that the police and gendarmerie respect human rights while carrying out their duties. During the year, the committee issued 11 recommendations regarding the improvement of human rights in the country, including in the following areas: The creation of a special institution to implement predeportation orders; the deportation zone at Vienna Schwechat airport; minimum standards regarding arrests of suspects; predeportation arrests of minors; the use of force by police; handling of illegal immigrants at border checkpoints; the use of language by law enforcement officials; and a review of law regulating arrest of suspects.

The Government continued to deny Kosovo authorities' request for extradition in the case of an Austrian police officer convicted in absentia for torture committed while serving in Kosovo's civilian international police in 2003. The officer was recalled to Austria, where he was allowed to remain on duty while an investigation into his alleged misconduct proceeded. That investigation remained ongoing at year's end.

In December, charges arose that army conscripts had been mistreated during drill exercises at three barracks. The controversial exercises included mock hostage taking and humiliating captivity practices. In response to these charges, the Defense Ministry set up an ad-hoc army investigation panel, which concluded that the conscripts had endured a "violation of human dignity." The Ministry suspended the responsible army supervisors from duty, and also withdrew oversight competencies for drilling exercises from a top Ministry official.

Prison conditions generally met international standards. The Government held male and female prisoners, adults and juveniles, and pretrial detainees and convicted criminals separately. The Government permitted independent human rights observers to conduct prison visits. Some human rights observers criticized the fact that nonviolent offenders, such as persons awaiting deportation, were incarcerated for long periods in single cells in inadequate facilities designed for temporary detention. Some observers argued that the Government should hold prisoners in more open facilities.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The two law enforcement bodies, the police and gendarmerie, have central command in the Ministry of Interior. In 2003, the Ministry of Interior initiated an overhaul of the structure of law enforcement bodies with the goal of merging the police and gendarmerie units. An initial 3-month trial phase of merged gendarmerie-police units in selected Vienna districts ended in August and generated strong criticism from participants. In December, Parliament passed a new security law, which included implementing legislation for the merger.

The police were generally well trained and disciplined, and there were no reports of police corruption.

In criminal cases, the law provides for investigative or pretrial detention for up to 48 hours; an investigative judge may decide within that period to grant a prosecution request for detention of up to 2 years pending completion of an investigation. The law specifies grounds required for such investigative detention and conditions for bail. The investigative judge is required to periodically evaluate an investigative detention. There is a system of bail.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The Constitution provides for the independence of judges in the exercise of their judicial office. Judges cannot be removed from office or transferred against their will. There are local, regional, and higher regional courts, as well as the Supreme Court. While the Supreme Court is the highest judicial body, the Administrative Court acts as the supervisory body over administrative acts of the executive branch, and the Constitutional Court presides over constitutional issues.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The system of judicial review provides for extensive possibilities for appeal. Trials must be public and conducted orally. Persons charged with criminal offenses are considered innocent until proven guilty.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or

Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2

Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the strict application of slander laws tended to discourage reports of police brutality. Foreign observers, including the European Court of Human Rights (ECHR), have criticized the use of libel procedures to protect politicians, which they argued hampered freedom of speech and the press. Those convicted of libel cannot appeal to the Supreme Court. Publications may be removed from circulation if they violate laws concerning morality or public security, but such cases were extremely rare.

The case involving FPO trade unionist Joseph Kleindienst and former Vienna FPO Secretary Michael Kreissl, accused of bribing police in 2000, concluded in February. The court acquitted both Kleindienst and Kreissl on all charges.

The independent media were active and expressed a wide variety of views without restriction.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. However, the Law on the Formation of Associations states that permission to form an organization may be denied if it is apparent that the organization would pursue the illegal activities of a prohibited organization, such as Nazi organizations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The status of religious organizations is governed by the 1874 Law on Recognition of Churches and by the 1998 Law on the Status of Religious Confessional Communities, which establishes the status of "confessional communities." Religious organizations are divided into three legal categories, each with different rights, privileges, and responsibilities (listed in descending order of status): Officially recognized religious societies, religious confessional communities, and associations. Government recognition as a religious society has a wide range of implications, including the authority to participate in the mandatory church contributions program, which can be legally enforced, to provide religious instruction in public schools, and to recruit religious workers to act as ministers, missionaries, or teachers. Religious societies have "public corporation" status, which permits them to engage in a number of public or quasi-public activities that are denied to confessional communities and associations.

The law also allows religious groups that are not recognized as religious societies to seek official status as confessional communities without the fiscal and educational privileges available to religious societies. Confessional communities have legal personality, which permits them to engage in such activities as purchasing real estate in their own names and contracting for goods and services. In 2003, the Administrative Court agreed with the 2002 Constitutional Court decision upholding the Government's 1998 rejection of the Sahaja Yoga group's application to become a confessional group.

Ten religious groups have constituted themselves as confessional communities according to the law. Numerous religious groups not recognized by the State, along with some religious law experts, have complained that the law's additional criteria for recognition obstruct claims for recognition and formalize a second-class status for unrecognized groups. Legal experts questioned the 1998 law's constitutionality.

In 2003, the ECHR received an appeal by the Jehovah's Witnesses, arguing that the legal requirement of a 10-year period of existence to be recognized as a religious group is illegal on administrative grounds. This appeal remained pending at year's end.

Religious groups that do not qualify for either religious society or confessional community status may apply to become associations under the Law of Associations. Associations are corporations under law and have many of the same rights as confessional communities, including the right to own real estate. Some groups have organized as associations, even while applying for recognition as religious societies.

There was some societal discrimination against members of unrecognized religious groups, particularly those considered to be "cults" or "sects." The majority of sects were small organizations with fewer than 100 members. Among the larger unrecognized groups were the Church of Scientology and the Unification Church. A large portion of the public perceived such groups as exploiting vulnerable persons for monetary gain, recruiting and brainwashing youth, promoting anti-democratic ideologies, and

denying the legitimacy of government authority.

The conservative OVP held the position that party membership is incompatible with sect membership if the sect holds a "menschenbild"—a view or conception of mankind—fundamentally different from that of the Party, advocates opinions irreconcilable with the ethical principles of the Party, or rejects the basic rights granted by progressively minded constitutional states and in an open society. This position was used to deny OVP membership to Scientologists.

The Ministry for Social Security and Generations and the City of Vienna funded a counseling center of a controversial NGO, the Society Against Sect and Cult Dangers (GSK), that actively works against sects and cults. GSK distributes information to schools and the general public and runs a center to counsel persons who believe that sects and cults have negatively impacted their lives.

The Federal Office of Sect Issues continued to function as a counseling center for those who have questions about sects and cults. Under the law, this office is independent of the Government; however, the Minister for Social Security and Generations appoints and supervises its head. Some members of the public believed the Federal Office of Sect Issues and similar offices at the state level fostered societal discrimination against unrecognized religious groups.

At the end of 2003, the state of Lower Austria's Family Office withdrew a presentation on its website, which negatively characterized many religious groups.

Muslims have complained about incidents of societal discrimination and verbal harassment. Reports indicated several incidences of discrimination against Muslim women wearing headscarves in schools. In January, a high school in the state of Upper Austria prohibited students from covering their heads in school. A Muslim parent filed a discrimination complaint with local police authorities, who ordered that his daughter be allowed to wear a headscarf. In response to this incident, the head of the Upper Austrian State School Council and the Ministry of Education confirmed that Muslim girls and women had the right, according to legal provisions on religious freedom, to wear headscarves.

Sensitivity to and fears of Scientology remained an issue. Individual Scientologists reported discrimination in hiring.

The NGO Forum Against Anti-Semitism (Forum gegen Antisemitismus) reported 135 anti-Semitic incidents during the year, including 4 physical attacks. The incidents included name-calling, graffiti/defacement, threatening letters, anti-Semitic Internet postings, property damage, vilifying letters and telephone calls, and physical attacks. The EU's Monitoring Center on Racism and Xenophobia declared that anti-Semitism in the country was characterized by diffuse and traditional anti-Semitic stereotypes rather than by acts of physical aggression.

The law prohibits any form of neo-Nazism and anti-Semitism and any type of activity in the spirit of National Socialism. It also prohibits public denial, belittlement, approval, or justification of National Socialist crimes, including the Holocaust. The Criminal Code prohibits public incitement to hostile acts, insult, contempt against a church or religious society, or public incitement against a group based on race, nationality, or ethnicity, if that incitement could pose a danger to the public order. The Government strictly enforced its anti-neo-Nazi legislation and provided police protection for Jewish community institutions.

Holocaust education was generally taught as part of history instruction, but also was featured in other subjects under the heading "political education (civics)." Religious education classes were another forum for teaching the tenets of different religions and overall tolerance. Special teacher training seminars were available on the subject of Holocaust education. The Education Ministry also ran a program through which Holocaust survivors talked to school classes about National Socialism and the Holocaust.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign

Travel, Emigration and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. The Government did not restrict free movement within the country or the right of citizens to change residence or workplace. The law prohibits forced exile, and the Government did not use it in practice.

Immigrants must show a basic knowledge of the German language and an understanding of the country's culture when applying for an immigrant visa. New immigrants who cannot show a basic knowledge at the time of application need to complete German language and civics courses by various deadlines. Those who fail to complete these language and culture requirements could face financial penalties, deportation, or expulsion. Annual immigration quotas remained static at approximately 8,000 per year.

In 2003, there were 45,126 illegal aliens intercepted at national borders, a 7 percent decrease from the previous year. Approximately 65 percent of these were asylum seekers. As of August, the number of illegal immigrants (both illegal workers and trafficked persons) continued to decrease. Under the "Dublin II" Regulation effective since 2003, asylum seekers could be

sent back to the first Dublin member-state they entered, which in practice would likely be one of the new EU member states. With the inauguration of the EURODAC fingerprinting/registration system in 2003, asylum seekers could be more easily identified if they moved from country to country.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum; however, the Government subscribed to a safe country of transit policy, which required asylum seekers who transited a country determined to be "safe" to return to that country to seek refugee status. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

On May 1, a new asylum law entered into force, aimed at expediting the asylum claim process by requiring a first determination to be made within 72 hours of the filing of a claim. Under the new law, applicants whose claims are found to be unjustified can be deported. All other applications are to be forwarded to the Federal Asylum Office for further review. If the adjudicator at the Federal Asylum Office believes the claim to be "manifestly unfounded," or the applicant has a previous asylum request refusal on record and has not submitted significant new information or grounds, the adjudicator is required to refuse the asylum claim. These rejected applicants have limited rights of appeal and no guarantee they can remain in the country during the appeals process. The new law also stops the practice of accepting asylum claims at land borders and introduces a list of "safe countries of transit."

In October, in a legal challenge to the new asylum law, the Supreme Court upheld the law, but struck down certain provisions as unconstitutional. These included the provisions that in Dublin cases allowed the prompt removal of an applicant during the appeal process and the provision that automatically placed persons filing follow up applications in deportation detention. While endorsing the law's general limitation on the presentation of additional evidence in the appeals process, the court ruled that no such limit should apply in cases involving torture victims.

In cases where the refugee arrived from a safe country of transit, the Government returned refugees to that country, rather than the country from which they originally fled. If the Federal Asylum Office rejected an asylum claim, the claimant could appeal to the independent Federal Asylum Senate, then to the Supreme Administrative Court. Rejected asylum seekers also had recourse to the Constitutional Court in cases in which they alleged a breach of the European Convention on Human Rights and Individual Freedoms. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

During the year, there were a total of 24,676 asylum applications, compared with 32,359 in 2003, a 23.7 percent decrease. The official approval rate for 2003 was 29.6 percent. The rate dropped to 21.6 percent when "refoulement decisions"--negative decisions where applicants cannot be returned to the country of origin because of fear of prosecution and obtain a temporary right of residence--were counted. In 2003, the largest groups of applicants were persons from Russia (predominantly Chechens), Turkey, India, Serbia and Montenegro, and Afghanistan.

The Government contracted with a private company, European Homecare, to provide counseling to asylum applicants throughout the asylum process and encouraged them to return to their country of origin if their claims were denied. Since July 2003, this company also provided care and maintenance for asylum seekers at residential facilities. There have been accusations of injury, violence, and death occurring at centers operated by European Homecare. For example, in January, a female asylum seeker in Traiskirchen refugee camp alleged that a guard raped her. In March, the public prosecutor's office suspended its investigations citing a lack of grounds on which to initiate criminal charges.

The new asylum laws define "government care" as a form of voluntary support provided by the Government in cooperation with the states, municipal authorities and relief organizations. The maximum number of persons who qualified because of financial hardship (asylum seekers and otherwise needy applicants) was estimated at approximately 16,000. After lengthy negotiations between the Government and the states, the two sides agreed on a quota of how many qualified individuals each state would house and on the division of costs. At year's end, only two of the nine states met their required quotas. States argued that the numbers of affected applicants far exceeded the original estimates. At a special meeting of state governors in September it was agreed that a more precise definition of criteria for needy applicants was needed. Followup meetings occurred in November and early December, but most states still have yet to provide additional housing.

The Human Rights Advisory Council continued to operate to ensure that the police and gendarmerie respect human rights while carrying out their duties.

In August, the Superior Provincial Court in Vienna ruled on civil charges filed on behalf of the daughter of Marcus Omofuma, an unsuccessful Nigerian asylum applicant who died after being physically restrained for violent behavior while being deported to Nigeria, awarding damages of \$13,500 (10,000 euros) to the family.

Section 3

Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In April, voters elected President Heinz Fischer of the SPO to a 6-year term.

The Constitution provides for full public access to government information. Authorities can only deny such access if doing so would violate substantial data protection rights or would involve information that is of "national security interest." Petitioners can challenge denials before the Administrative Court. Application of this law has been largely uncontroversial.

There were 59 women in the 183-seat National Assembly and 18 in the 62-member Federal Assembly. There were 5 women in the 12-member Federal Cabinet.

Although there was relatively little minority representation at the national level, no precise statistics were available, since most people self-identified as Austrians, not as members of minorities.

Section 4

Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases, groups were dissatisfied with the information supplied by authorities in response to specific complaints. There were no reports of discrimination against organizations that report on human rights. The Human Rights Advisory Council, composed of representatives from the Justice and Interior Ministries, and NGOs, operated to ensure that the police and gendarmerie respected human rights while carrying out their duties.

In May, the Government adopted a revised Equal Treatment Bill, implementing the EU Anti-Discrimination and Anti-Racism Guidelines. The bill went into effect on July 1. Opposition parties and NGOs criticized the Government for having integrated the EU guidelines into existing legislation, rather than formulating a specific anti-discrimination law. Although NGOs conceded that the revised law was a positive step, they criticized the sanctions and fines for noncompliance as too weak. They also criticized the Government for not comprehensively including NGOs in the consultation process.

The Austria Convention (Oesterreichskonvent) continued the work begun in May 2003 on reforming the national Constitution. One committee focused on streamlining human rights provisions in the Constitution, including the creation of a list of all fundamental human rights. Final recommendations were due in early 2005.

Section 5

Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for protection against discrimination in employment, provision of welfare benefits, and other matters, and the Government generally enforced these provisions effectively. In August, a public debate took place on expanding the rights of homosexuals.

Women

Although no accurate statistics were available, violence against women was a problem. Police and judges enforced laws against violence; however, media reports estimated that fewer than 10 percent of abused women filed complaints. The Association of Houses for Battered Women estimated that one-fifth of the country's 1.5 million adult women had suffered from violence in a relationship. The law provides that police can expel abusive family members from family homes for up to 3 months. In 2003, an injunction to prevent abusive family members from returning home was applied in 4,180 cases. The Government also sponsored shelters and helplines for women.

Prostitution is legal; however, trafficking for the purposes of prostitution is illegal and was a problem (see Section 5, Trafficking). Laws regulating prostitution require prostitutes to register, undergo periodic health examinations, and pay taxes. Despite the existence of legal prostitution, illegal prostitution was a problem.

The law prohibits sexual harassment, and the Government effectively enforced those laws. Of the 2,556 new cases brought to the Ombudsmen for Equal Opportunity in 2003, 394 were complaints of sexual harassment. The Federal Equality Commission, as well as the Labor Court, may order employers to compensate victims of sexual harassment.

There are no legal restrictions on women's rights. A Federal Equality Commission and a Federal Commissioner for Equal Treatment oversee laws prescribing equal treatment of men and women.

In 2003, 62.8 percent of women between the ages of 15 and 65 were employed; on average, women earned only 79 percent of what men earn for the same work. Women were more likely than men to hold temporary positions and part-time jobs and also were disproportionately represented among those unemployed for extended periods.

Although labor laws provide for equal treatment of women in the civil service, women remained underrepresented. To remedy this disparity, the law requires hiring women of equivalent qualifications ahead of men in all civil service areas in which less than 40 percent of the employees are women, including police; however, there are no penalties to agencies for failing to attain the 40 percent target.

Female employees in the private sector may invoke equality laws prohibiting discrimination of women. The Federal Equality Commission may award compensation of up to 4 months' salary to women who experienced discrimination in promotions because of their gender. The Commission may also order compensation for women who were denied a post despite having equal qualifications. Parents who work for companies with more than 20 employees and have children under the age of 7 have the right to work part-time.

Women may volunteer to serve in the military forces. As of September, there were 246 women serving in the military, out of a standing force of approximately 35,000, including 4 commissioned officers. There were no restrictions on the type or location of assignments of women. Ten women worked in peacekeeping assignments abroad.

Some women's rights organizations were politically affiliated, while other groups operated autonomously. They usually received wide public attention when voicing their concerns. The Government provided subsidies to these groups.

Children

The law provides for the protection of children's rights. Each state government and the federal Ministry for Youth and Family Affairs has an Ombudsperson for Children and Adolescents whose main function was to resolve complaints about violations of children's rights.

While 9 years of education were mandatory for all children beginning at age 6, the Government also provided free education through secondary school and subsidized technical, vocational, or university education. The majority of schoolage children attended school. Educational opportunity was equal for girls and boys. Comprehensive, government-financed medical care was available for all children without regard to gender.

Child abuse was a problem. Although there was no societal pattern of abuse against children, heightened awareness of child abuse and a growing number of reports of incidences of abuse led the Government to continue its efforts to monitor the issue and prosecute offenders. While doctors were required to report suspected cases of child abuse and molestation to the police, there were exceptions if the suspected abuser was a close relative of the victim or if the doctor judged it necessary for the well-being of the minor. However, in such cases, the victim's representative was required to contact a youth care officer or a hospital's child protection unit.

According to the Penal Code, sexual intercourse between an adult and a child under 14 years of age is punishable with a prison sentence of up to 10 years; in case of pregnancy of the victim, the sentence can be extended to up to 15 years.

In 2003, the Interior Ministry reported 731 cases of child abuse, most involving intercourse with a minor. The same year, the Justice Ministry reported 193 convictions. Under the law, any citizen engaging in the sexual abuse of a child in a foreign country is punishable under Austrian law, even if the actions are not punishable in the country where the abuse was committed. The law also provides for criminal punishment for the possession, trading, and private viewing of child pornography. Exchanging pornographic videos of children is illegal even if done privately rather than as a business transaction.

The Federal Crime Authority had a special department for cyber crime, with an anonymous e-mail point of contact for the public to report on child pornography on the Internet.

Trafficking of children remained a problem (see Section 5, Trafficking).

Trafficking in Persons

The law prohibits trafficking in persons; however there were reports that trafficking occurred. Trafficking in women for forced prostitution and domestic service was a problem. Child trafficking was a problem.

Articles 217, 104, and 104a of the Criminal Code, as well as Paragraph 105 of the Aliens Act, are the key provisions for the prosecution of traffickers, addressing: Trafficking for prostitution through deception regarding the purpose of the journey, coercion, or the use of force; trafficking for the purposes of slavery; alien smuggling; and the exploitation of aliens without specifically requiring demonstration of prostitution as a goal or assistance in the illegal entry of aliens. In February, Parliament passed legislation that expanded the definition of trafficking to include trafficking of persons for the exploitation of labor and trafficking of organs. This legislation entered into effect in May.

Trafficking is illegal and punishable by prison sentences of up to 10 years. Trafficking for purposes of slavery is punishable by a prison sentence from 10 to 20 years. The maximum penalty for alien smuggling is 10 years' imprisonment.

The Interior Ministry's Federal Bureau for Criminal Affairs has a division dedicated to combating human trafficking. Law enforcement officials have established contacts with authorities in countries of origin to facilitate the prosecution of suspected traffickers.

The country was a transit point and final destination for women trafficked from Bulgaria, Romania, Ukraine, Moldova, the Balkans, and, to a lesser extent, the Czech Republic, Slovakia, and Hungary. The women were trafficked into the country primarily for the purpose of sexual exploitation. Women also were trafficked from Asia and Latin America for domestic labor. Police noted increased trafficking of Bulgarian children to engage in begging and stealing in Viennese shopping centers. There were also reports that some children were trafficked for possible sexual exploitation.

There were no accurate statistics on trafficked persons. However, the number of intercepted illegal immigrants, some of whom some were believed to be trafficking victims, continued to increase. In 2003, the NGO LEFOE reported that it assisted 142 victims of trafficking, down from 208 victims in 2002. The country was particularly attractive to traffickers because of its geographic location and because citizens of the Czech Republic, Slovakia, Hungary, Romania, and Bulgaria did not need visas to enter the country. Most trafficked women were brought to the country with promises of unskilled jobs such as nannies or waitresses. Upon arrival, they were coerced into prostitution. According to police, there also were cases of women who knowingly entered the country to work as prostitutes, but who then, were forced into dependency akin to slavery. Most victims were in the country illegally and feared being turned into authorities and deported. Traffickers usually retained victims' official documents, including passports, to maintain control over them. Victims of trafficking reported being subjected to threats and physical violence. A major deterrent to victim cooperation was widespread fear of retribution, both in the country and in the victims' countries of origin.

The majority of traffickers arrested by police were citizens; however, the number of foreigners engaged in trafficking has increased over the years. Police estimated that a large portion of trafficking was controlled by organized crime, primarily from Eastern Europe.

The Government provided temporary residence to trafficking victims who were prepared to testify or who intended to file civil law claims. However, victims still rarely agreed to testify, due to fear of retribution. Temporary residency status allowed victims to stay in the country only during a trial. There were no provisions allowing victims of trafficking to remain in the country following their testimony; virtually all victims were repatriated.

LEFOE provided secure housing and other support for victims of trafficking. The International Organization for Migration sought to put victims in contact with NGOs in their countries of origin upon their return. With financial assistance from the Interior Ministry, LEFOE also continued to operate the Intervention Center for Victims of the Trade in Women in Vienna, which provided services to trafficked women, including psychological, legal, and health-related counseling and assistance, emergency housing, and German language courses. There were also NGOs in other cities financed by federal and local governments, which provided counseling and assistance.

The Government worked actively with international and regional organizations to carry out preventive programs throughout the region. Government-funded research on the problem of trafficking and NGO prevention work included anti-trafficking brochures, law enforcement workshops, and international conferences, funded with the help of private sources. The Government also funded intervention centers that provided emergency housing or psychological, legal, and health-related assistance to victims. The Government was also active in U.N. and Organization for Security and Cooperation in Europe international efforts to combat trafficking.

Persons with Disabilities

The law protects persons with disabilities from discrimination in housing, education, and employment and explicitly requires the Government to provide for equal rights for persons with disabilities "in all areas of everyday life." The law requires all private enterprises and state and federal government offices to employ one person with disabilities for every 25 to 40 employees, depending on the type of work. Employers who do not meet this requirement must pay a fee to the Government, and the proceeds help finance services for persons with disabilities such as training programs, wage subsidies, and workplace adaptations. However, many observers criticized the law for setting penalties too low to discourage companies from ignoring the requirement. There were no reports of societal discrimination against persons with disabilities. In addition to funding a wide range of programs for persons with disabilities, the Government budgeted \$94.5 million (70 million euro) during the year to fund projects that employed persons with disabilities.

Federal law mandates access to public buildings for persons with physical disabilities; however, low fines and insufficient enforcement resulted in the inaccessibility of many public buildings to persons with disabilities.

Adults with mental disabilities may be sterilized only in cases where a pregnancy would be considered "life-threatening," although no such sterilizations have been performed in recent years. The law prohibits the sterilization of minors.

National/Racial/Ethnic Minorities

The law recognizes six national minority groups: Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes. In the past, any

community where at least 25 percent of the population belonged to one of these groups was entitled to bilingual town signs, education, media, and access to federal funds earmarked for national minorities. As of September, there was still no decision on implementation of the 2001 Constitutional Court ruling ordering the lowering of the standard.

Most human rights groups claimed that Roma faced particular discrimination in employment and housing. Members of other minority groups, such as Turks, were not considered indigenous national minorities and did not have access to the same type of assistance. However, Turkish citizens benefited from a wide range of language and job promotion courses. NGOs complained that Africans living in the country experienced verbal harassment in public.

Statistics for 2003 showed a continued decrease in the number of neo-Nazi, rightwing extremist, and xenophobic incidents. During 2003, the Interior Ministry recorded 299 incidents, compared to 326 in 2002. During the year, the Government continued to express concern over the activities of extreme-right skinhead and neo-Nazi groups, many with links to organizations in other countries.

In March, the domestic NGO ZARA, in conjunction with other groups, released a report entitled "Racism 2003," which found that persons from diverse ethnic and racial backgrounds faced increasing discrimination from government officials, particularly police, as well as in the workplace and in housing. The report cited 140 examples of discrimination faced by immigrants on a daily basis and called for the strengthening of public education and legal protections for immigrants.

The Government continued its training program designed to combat racism and educate the police in cultural sensitivity.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides workers the right to form and join unions without prior authorization or excessive requirements, and workers exercised this right in practice. No workers were prohibited from joining unions. An estimated 47 percent of the work force was organized into 13 national unions belonging to the Austrian Trade Union Federation (OGB), which had a highly centralized leadership structure. Association of national unions with the OGB was voluntary. Individual unions and the OGB were independent of government or political party control, although formal factions within these organizations were allied closely with political parties.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 80 percent of the workforce was under collectively bargained agreements. Almost all large companies, private or state-owned, were organized. The OGB and the National Chamber of Commerce and its associations, which represented the employers, negotiated collective agreements covering wages, benefits, and working conditions for each industry. The OGB was exclusively responsible for collective bargaining.

The Constitution and national legislation do not explicitly provide for the right to strike; however, the Government recognized the right in practice. There were three legal strikes during the year. The law prohibits retaliation against strikers, and the Government effectively enforced the law. A special arbitration court for social affairs, which is part of the judicial system, generally handled legal disputes between employers and employees regarding job-related matters. Unions have access to the arbitration court.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, trafficking was a problem (see Section 5).

d. Prohibition of Child Labor and Minimum Age for

Employment

The minimum legal working age is 15 years. The Labor Inspectorate of the Ministry of Social Affairs effectively enforced this law. The Government has adopted laws and policies to protect children from exploitation in the workplace.

There were reports of trafficking of children and child labor (see Section 5).

e. Acceptable Conditions of Work

There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. The accepted unofficial annual minimum wage is \$13,500 to 14,850 (10,000 to 11,000 euros), and it provided a decent standard of living for a worker and family.

The Act on Working Hours regulates working hours and limits standard working hours to 8 hours per day and up to 40 hours per week. The standard workday may be extended to 10 hours, as long as the weekly maximum is not exceeded. Statutory provisions cover compulsory time off on weekends and official holidays. If the workday exceeds 6 hours, a half-hour break in between is mandatory. An employee also must have at least 11 hours off between workdays.

Overtime is defined as a period of working hours exceeding the daily or weekly maximum of the standard working hours. Overtime pay is 150 percent of regular salary. Monetary overtime compensation can be substituted by compensatory time off. The law limits overtime to 5 hours per week plus up to 60 hours per year. Collective bargaining agreements may provide for higher limits. In practice, these limits were frequently exceeded. These laws and regulations were generally effectively enforced, but there were press reports that indicated some workers were subject to compulsory overtime.

Foreign workers are subject to the same regulations as domestic workers.

The Labor Inspectorate of the Ministry of Social Affairs regularly enforced laws that provide for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. However, workers exercised this option rarely; workers normally relied instead on the Chambers of Labor, which filed suits on their behalf. The Labor Code provides that workers have the right to remove themselves from a job if they fear "serious, immediate danger to life and health" without incurring any prejudice to their job or career, and the Government effectively enforced this law.